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Stan — I know your position is different — Regards - Bill

OLC 78 0284
Hearings

January 19, 1978

The Honorable Edward P. Boland
Chairman
U.S. House of Representatives
Permanent Select Committee on Intelligence
Washington, D.C. 20515

Dear Chairman Boland:

Thank you for your invitation to testify before the Permanent Select Committee on Intelligence on whether the figure representing the intelligence budget should be made public. I understand I am to appear at 2 p.m. on Tuesday, January 24, 1978.

As requested, herewith is a prepared statement which I propose to read together with a copy of testimony I gave on this subject earlier to the Senate Committee, which I ask be incorporated in your record.

Sincerely,

W.E. Colby

WEC:pdk
Enclosures/as stated
cc: The Honorable Stansfield Turner

U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Testimony of

William E. Colby

(Former Director of
Central Intelligence 1973-1976)

Colby, Miller & Hanes
Washington, D.C.

24 January 1978

MR. CHAIRMAN. Thank you for this opportunity to testify to this committee on whether the U.S. intelligence budget should be made public. On April 27, 1977 I was privileged to testify on this question to the Senate Select Committee on Intelligence and rather than repeating all the points in that testimony, I attach a copy of my statement then for your review and record. Orally, I will merely summarize a few main points.

The presumption against secrecy in our government activities requires that a good reason be found for maintaining the secrecy of the intelligence budget. The good reason here is that publication would assist foreign nations to identify and frustrate our intelligence activities. We would thus be kept in ignorance of what they want to keep secret from us.

This danger is not dissipated by the proposal to publish only a single overall figure, as that figure would inevitably start a chain of exposures. A single figure would have to be explained as to what it covers and what it does not cover, and the reasons it goes up or down in subsequent years would have to be explained. The demand would soon arise for a division of the figure into component categories of activity. Any exceptional surge in the budget figure or variation in the amounts for the various categories would immediately stimulate foreign analysts and our own investigative reporters to identify the reason for the variation, leading rapidly to its disclosure. A large new technological venture, a substantial shift in our priorities of coverage, or a major reduction in some part of our program would be telegraphed to the nation against which such activities were conducted.

Balanced against this risk, there would be little public benefit in the revelation of an overall figure. Public decisions about the level of effort of our intelligence community could not be made only on the basis of a general figure without some reference to the activities the figure pays for. And such a detailed review and discussion can and does take place both within the Executive Branch and the committees of the Congress who are fully

informed of the figures as well as the programs they support.

The real problem to which this proposal is addressed is public confidence in the propriety and efficiency of our intelligence activities. This confidence can be obtained through three steps much more on point than debate about dollars spent. The three are:

a. Early adoption of revised legislation providing a clear charter of our intelligence activities, codifying and updating Executive Order 11905 of 18 February 1976. The Senate Committee is currently engaged in developing a proposal of this nature, and I am sure that this Committee could make a major contribution towards the constitutional consensus such a statute would provide for our intelligence activities.

b. Firm Congressional supervision of our intelligence activities, already exemplified by the work of the Senate Select Committee on Intelligence and which this Committee is now undertaking for the House. Serious, responsible criticism where it is deserved, matched with praise where it is deserved, by these Committees will clarify the real value of American intelligence to the public.

c. Increased public release of the end products of our intelligence efforts, both information and assessments, while protecting the fragile sources and techniques from which they are derived. Experience with the utility

and excellence of these products will, in my opinion, do more to develop public confidence in our intelligence activities than discussion of how many dollars it spends.

Mr. Chairman, this question has long been debated. In recent years both the House and the Senate have voted to retain the secrecy of the figure. The reasons for those votes are no less valid today. I recommend that the issue be left where it is and that all concerned move to the more important areas in which public confidence in our intelligence activities can be built.

TESTIMONY OF WILLIAM COLBY, FORMER DIRECTOR OF CENTRAL INTELLIGENCE

Mr. COLBY. Thank you, Mr. Chairman. I appreciate very much the committee's invitation to express my views on whether the budget for intelligence should continue to be secret or should be revealed in public. I spoke to this issue publicly when I was Director of Central Intelligence on August 4, 1975, before the Select Committee on Intelligence of the House. I am pleased to supplement those comments with some more timely ones as this committee considers the question.

Let me first say that under our Constitution and form of government there is a presumption against secrecy in our governmental activities. I fully accept this presumption and support a change from the centuries old tradition of total secrecy about intelligence. Some of intelligence's recent difficulties were the result of holding too long to this tradition in a new and American political atmosphere. We are now developing a new approach to intelligence, making public as much of its activities and reports as possible. For example, many of the information reports and assessments of our intelligence can be made available to the Congress and to the public who must share in the foreign policy decisions of our government, as President Carter did with the recent oil study. I believe we need further steps in this direction to change existing habits and procedures toward the regular provision of open information and assessments on foreign matters to our public.

I also believe that many of the overall policies and procedures of our intelligence agencies can be made public, and I participated in opening some of these while I was in office. I am happy to see that an open Presidential Executive order has clarified the proper limits and improper activities which might otherwise be conducted by intelligence, replacing previous vague, secret and ambiguous directives. I understand that this committee is considering amendments to the National Security Act of 1947 to incorporate into law specific missions, responsibilities and limitations for American intelligence. I fully support this effort.

But our Nation does, and must have secrets. Certain important contributions to our free society will only work if their secrecy is protected. The secret ballot box is vital to our free country. The privacy of our income tax returns is protected by criminal sanctions against an Internal Revenue Service officer who would expose them without authorization. Approximately 30 such statutes exist in our code today in order that certain important functions be protected if they must exist in secret. None of us knows who "Deep Throat" was, but we have all benefited by his revelation of abuses of power. Public identification of him could discourage future "Deep Throats". Consequently his identity is being protected by the journalist who dealt with him.

It is equally necessary that our Nation protect the sources of information necessary to keep it safe and free in the complicated and dangerous world in which we live. The present National Security Act requires that the Director of Central Intelligence protect intelligence sources and methods. It is from this statutory charge that I think we should consider the question of opening the intelligence budget to public and inevitable foreign scrutiny.

A contention exists that secrecy of the intelligence budget conflicts with article I, section 9, clause 7 of the Constitution. That clause was adopted after debates in the Constitutional Convention over whether concealment of certain expenditures should exist in the public interest, and was not part of the initial draft. Language was first suggested by George Mason which would have required an annual account of public expenditures. James Madison, however, argued for a change only to require reporting "from time to time" and explained that the intent of his amendment was to "leave enough to the discretion of the legislature." Patrick Henry opposed the Madison language because he said it made concealment possible. But when the debate was over, it was the Madison language and purpose which prevailed. An indicator of what the discretion of the legislature might include appears in article I, section 5, clause 3, which states:

> Each House shall keep a journal of its proceedings and from time to time publish the same, except such parts as may in their judgment require secrecy.

Confidential expenditures have existed from the earliest days of the Republic. President Washington in his first annual message requested a special fund for intelligence activities. Congress, with many Members having participated in the formulation of the Constitution, agreed and provided for expenditures from the fund to be recorded in the private journals of the Treasury. Later Congresses provided secret funds to a series of presidents, and a number of examples of confidential budgets can be found in our history. To contend that the Constitution requires total exposure of our intelligence budget is to contest 200 years of consensus about the Constitution and the need for secrecy in certain of our affairs. In this, of course, the United States is similar to every other nation of the world which provides for the possibility of secret budgets for intelligence; indeed, to my knowledge, there is no nation which publishes its intelligence expenditures.

It is important also to clarify how secret the intelligence budget really is. In fact, a number of bodies review it in as much detail as they wish and have the ability to reduce or conceivably add to it. Within the executive branch, the budget of each intelligence agency is reviewed by the Committee on Foreign Intelligence reporting to the National Security Council. The Office of Management and Budget also reviews these budgets in detail and has independent examiners who question the need for each separate item in these budgets. The budget is then incorporated in the President's recommended budget to the Congress so that the President himself is fully aware of the amount and the makeup of the intelligence budget.

Within the Congress, the intelligence budget requests are submitted to the Appropriations Committees of each House and to the appropriate substantive oversight committees, in the Senate now the Senate Committee on Intelligence, and in the House, the Armed Services Committee. Detailed briefings on these budget requests are provided, and questions are answered in whatever detail the individual Members of the subcommittees charged with these reviews request. I understand that the final figures are then certified to the Budget Committees of each House, which then also become aware of the size of the intelligence budget. Certainly this degree of availability enables the Congress as well as the Executive to set the proper level of our intelligence expenditures through its qualified representatives, and audit

and monitor the effectiveness of the agencies' use of the funds appropriated.

To relieve the concern of some Members of the Senate or the House that they could be kept in ignorance of something on which they are required to vote, the chairmen of the Appropriations Committees of the Senate and House on the floor have offered to inform any Member of the final figure for intelligence in the annual appropriation bill. Thus, any Member willing to undertake to respect the confidence extended by these chairmen could be aware of the figures involved. Lastly, the chairmen of the Senate Appropriations Committee and of the House Appropriations Committee have stated on the floor that the entire expenditure for the CIA budget is included within the budget for the Defense Department, so that the total sum expended for defense is known to include whatever is necessary for intelligence.

Mr. Chairman, the intelligence budget may be secret, but it is subjected to a great deal of intensive review by the executive and the legislative branches of our constitutional system. In this light, it is significant that the Senate, in June 1974 by a vote of 55 to 33, decided to retain its secrecy, and the House made the same decision in the fall of 1975 by a vote of 260 to 140.

I believe no one seriously contends that the budget of the CIA or of the other intelligence agencies should be made totally available to any public scrutiny, thus exposing its detailed activity to foreigner as well as citizen alike.

This would clearly make it impossible to conduct secret intelligence operations or protect the Nation's sources and vulnerable technology. But the contention is made that a total figure could be published as a compromise between the present secrecy and total exposure. A short review of this question will show how unreal this suggestion is.

On April 1, the New York Times carried a front page story to the effect that an intelligence budget totaling $6.2 billion was being requested for fiscal year 1978. A review of that story clearly shows the problems which would arise in any effort to reveal a total figure for the intelligence budget. The story indicates serious question as to exactly what the $6.2 billion refers to. It refers to figures published elsewhere of $4 billion and of $10 billion, and states that these refer to different ways of determining what is in the intelligence budget. I do not know the 1978 request, but I am in no way assisted in determining the value or lack of value of the $6.2 billion requested for 1978 by that story. I am left in total confusion as to exactly what is meant by the figure and what it covers.

Thus, any effort to release an official figure for the intelligence budget would have to be accompanied by considerable description of exactly what kinds of programs were covered and what kinds of programs were excluded. For example, language would be necessary to explain whether the radar, the intercept devices, the intelligence staff on a U.S. cruiser would be included in the figure or not, and exactly which agencies were included and which were not. This kind of clarification would have to go on until a very clear line appeared between the kinds of operations covered under the budget and those left out. The process would be accompanied by debate as to the wisdom of the dividing line selected, which could only reveal considerable detail about our intelligence programs.

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These difficulties in 1 year would be compounded by the figure for a second and subsequent years. The immediate question would arise as to why the figure went up or went down. Any changes in the coverage of the figure through transfer of programs from one service to another, or one category of activity to another would have to be explained to avoid presenting a false picture. Again the result would only be to outline in public more and more details of our overall intelligence program.

The public debate apparently sought by publishing the figure would inevitably erode the secrecy of detail which had been agreed at the outset. The demand would rise for the breakdown of the total figure into its component major parts of investment, personnel, operations by type, regional allocations, etc. Each such breakdown would then provide the basis for separate trends over the years, revealing the variations in the composition of our intelligence program as it adjusted to new circumstances.

My concern is not theoretical, Mr. Chairman. In 1947, the Atomic Energy Commission account for the then-secret atomic weapons program was felt to be so sensitive that only a one-line item was placed in the budget that year to account for all such weapons expenditures. In theory many of these expenditures are still secret, but that one line item by 1974 had expanded to 15 pages of detailed explanation of the AEC's weapons program. I could only foresee a similar erosion of the secrecy which will be necessary to successful intelligence operations in the future.

Another real example shows the probable effect of such a move. The Chinese Government did not publish the value of its industrial production after 1950. But they did publish percentage increases for the nation and most of the provinces, apparently believing this would not reveal the absolute figures. The revelation of one key figure made it easy to determine the absolute figure for all the data, when the Chinese reported that the value of industrial production in 1971 was 21 times that of 1949. Since we did know the figure for 1949, it was easy to determine the 1971 figure, and to reconstruct the absolute figures both before and after that date, both nationally and by province.

Other nations have followed our example in expanding the intelligence discipline to include the scrutiny and study of public releases of information. With a public budget figure for intelligence and its inevitable erosion to specify its subprograms, it would be easy for foreign nations and for our own energetic investigative reporter to associate increases in intelligence funding with new ventures in operations or in technology, thereby stimulating countermeasures by their targets to make such programs fruitless, and leave America in ignorance.

Mr. Chairman, you are being asked to make a watershed decision on this question. If you decide to make this total budget figure public, I confidently predict that you will be inundated by a series of questions in the coming years as to what the figure includes and what it excludes. Why does it go up? Why does it go down? Is it worth it? How does it work? And I believe that we will in a very short time be losing much of the value of the sums appropriated for these intelligence activities.

Thus, I believe that it is not necessary, that it would not be helpful to the public, that it would be destructive to our future intelligence operations, and that it would be unwise for our Nation to be the first in the world to reveal its intelligence budget.

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2	DDCI		✓		
3	D/DCI/IC				
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9	GC				
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Executive Secretary

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